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March 11, 2021

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**Via ECF**

The Honorable Victor Marrero  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *United States, et al., ex rel. SW Challenger, LLC v. eviCore healthcare MSI, LLC*, No. 19-2501

Dear Judge Marrero:

On behalf of eviCore healthcare MSI, LLC (eviCore), we write respectfully to request a three-week extension for eviCore to file its reply brief in connection with its pending motion to dismiss and its response to the Government's Statement of Interest ("SOI"). This is eviCore's first request for an extension of time to submit a reply. EviCore also requests permission to file a combined reply brief and response to the SOI of up to five additional pages beyond the 10 pages permitted under Rule II.D of your *Individual Rules of Practice* for reply memoranda. Counsel for Relators and the Government consent to these requests.

By way of background, on November 23, 2020, eviCore filed its motion to dismiss the Second Amended Complaint ("SAC"). See ECF No. 21. On December 8, 2020, by stipulation of the parties, the Court granted Relators' unopposed request for an extension of the briefing schedule, and set the due date for Relators' opposition brief for January 22, 2021, and the deadline for eviCore's reply brief as February 14. See ECF No. 24. Prior to eviCore filing its reply, on February 4, 2021, the Government filed an unopposed request for an adjustment to the motion to dismiss briefing schedule to permit the Government to file a SOI. See ECF No. 33. On February 5, the Court granted that request and revised the briefing schedule. See ECF No. 34. Subsequently on February 15, the Government filed an unopposed request for a one-week extension to file its SOI. See ECF No. 37. The Court granted that request and reset the deadline for the Government to file a SOI to March 1, and also reset the deadline for eviCore to file its reply/responsive papers to March 22. See ECF No. 38.

On March 1, 2021, the Government filed its SOI in this matter. See ECF No. 39. The Government's 10-page SOI "takes no position on the overall merit of eviCore's motion to dismiss," and was filed "solely to clarify relevant points regarding the Medicare Part C program and claims made thereunder" and to address "whether payment requests made to Part C plans by subcontractors like eviCore are 'claims' under the FCA" within the definition of "claim" in the False Claims Act. 31 U.S.C. § 3729(b)(2); SOI at 2. The SOI also discusses other purely legal issues under the FCA, such as "presentment," in the context of subcontractors to Part C plans.

To reply to Relators' opposition brief and respond to the additional legal issues raised in the Government's SOI, eviCore respectfully requests a three-week extension of the due date to file a combined reply to the opposition brief and response to the SOI, from March 22, 2021 to April 12, 2021.

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Additionally, and for similar reasons, eviCore respectfully requests permission to file a combined memorandum of law of up to 15 pages (i.e., five additional pages beyond what the rules otherwise permit for a reply). As mentioned, we have communicated with counsel for the Relators and the Government, both of whom have informed us they have no objection to these requests.

We thank the Court for its consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'David M. Siegal', written over a light blue horizontal line.

David M. Siegal, Esq.  
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The requests are granted. Defendant eviCore is authorized to file a combined memorandum of law of up to 15 pages. The deadline to do so is hereby extended from 3/22/21 to 4/12/21.

**SO ORDERED.**

3/12/2021

DATE

A handwritten signature in black ink, appearing to read 'Victor Marrero', written over a light gray horizontal line.  
VICTOR MARRERO, U.S.D.J.

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cc: All Counsel of Record (Via ECF)

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